

Case No. 17,732.

WILLIAMS v. POOR.

{3 Cranch, C. C. 251.}¹

Circuit Court, District of Columbia.

Dec. Term, 1827.

AUCTIONEERS—INSTRUCTIONS OF OWNER—LIMITATION OF PRICE.

1. The auctioneer is bound by the instructions of the owner.
2. If the price is limited, his duty is to set the goods up at that price; if they will not sell at the price limited, he must not sell; and the goods perish, because they cannot be sold at that price, the loss must fall upon the owner.

This was an action [by James Williams' executors] against [Moses Poor], an auctioneer, for not accounting for goods deposited with him to be sold at a limited price; as per schedule amounting to \$450.18.

Mr. Hall, for defendant, contended that the auctioneer was not bound by the limitation of price; that if he set them up, he was bound to sell them to the highest bona fide bidder, whatever might be the amount of the bid; and that the auctioneer was not liable if the goods perished because they would not sell for the price limited by the owner. *Bexwell v. Christie*, Cowp. 395.

Mr. Wallach, for plaintiff, contended that the defendant should have accounted with the plaintiff's testator, for the goods, at the limited price, or returned them.

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THE COURT instructed the jury, in effect, that the auctioneer was bound by his instructions; and if the price was limited by the owner, his duty was to set them up at that price, and if they would not bring it, he had no right to sell them; and if they perished because they could not be sold at that price, it was not his loss.

Verdict for the defendant.

¹ [Reported by Hon. William Cranch, Chief Judge.]